

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

CLEAMON D. BRYANT,)
Appellant,)
)
v.) CAVC No. 18-0092
) EAJA
)
DAT P. TRAN,)
ACTING SECRETARY OF)
VETERANS AFFAIRS,)
Appellee)

APPELLANT'S APPLICATION FOR AN
AWARD OF ATTORNEYS FEES AND EXPENSES
PURSUANT TO 28 U.S.C. § 2412(d)

Pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d) (1994), and the Court's Rule 39, Appellant, through counsel, seeks a total fee in the amount of **\$18,662.97**.

The basis for the application is as follows:

Grounds for an Award

This Court has identified four elements as being necessary to warrant an award by the Court of attorneys fees and expenses to an eligible party pursuant to the EAJA. These are: (1) a showing that the appellant is a prevailing party; (2) a showing that the appellant is eligible for an award; (3) an allegation that the government's position is not substantially justified; and (4) an itemized statement of the fees sought. *Owens v. Brown*, 10 Vet. App. 65, 66 (1997) (*quoting Bazalo*, 9 Vet. App. at 308). *See also* 28 U.S.C. §§ 2412(d)(1)(A),(B).

As will be demonstrated below, Appellant satisfies each of the above-enumerated requirements for EAJA.

1. THE APPELLANT SATISFIES EACH OF THE REQUIREMENTS FOR AN AWARD OF ATTORNEY'S FEES AND EXPENSES

A. *The Appellant Is a Prevailing Party*

In *Buckhannon Bd. and Care Home, Inc. v. West Virginia Dept. of Health and Human Resources*, 532 U.S. 598, 121 S.Ct 1835 (2001) (hereafter “Buckhannon”), the Supreme Court explained that in order to be a prevailing party the applicant must receive “at least some relief on the merits” and the relief must materially alter the legal relationship of the parties. 532 U.S. at 603-605. The Federal Circuit adopted the *Buckhannon* test in *Brickwood Contractors, Inc. v. United States*, 288 F.3d 1371 (Fed. Cir. 2002) and applied it to an EAJA applicant. The Federal Circuit explained in *Rice Services, LTD. v. United States*, that “in order to demonstrate that it is a prevailing party, an EAJA applicant must show that it obtained an enforceable judgment on the merits or a court ordered consent decree that materially altered the legal relationship between the parties, or the equivalent of either of those.” 405 F.3d 1017, 1025 (Fed. Cir. 2005).

In *Zuberi v. Nicholson*, 19 Vet. App. 541 (2006), this Court explained that the Federal Circuit case of *Akers v. Nicholson*, 409 F.3d 1356 (Fed. Cir. 2005) “did not change the focus for determining prevailing party status from a standard that looks to the basis for the remand to one that looks to the outcome of the remand. *Akers*

simply did not involve a remand that was predicated on an administrative error.”

19 Vet. App. at 547 (internal quotations omitted). The Court held in *Zuberi* that

Motorola provided the proper test for prevailing party. *Id.* Next in *Kelly v.*

Nicholson, 463 F.3d 1349 (Fed. Cir. 2006), the Federal Circuit held that:

To be considered a prevailing party entitled to fees under EAJA, one must secure some relief on the merits. Securing a remand to an agency can constitute the requisite success on the merits. [W]here the plaintiff secures a remand requiring further agency proceedings because of alleged error by the agency, the plaintiff qualifies as a prevailing party ... without regard to the outcome of the agency proceedings where there has been no retention of jurisdiction by the court.

Id. at 1353 (internal citations and quotations omitted).

The Appellant in the instant matter is a prevailing party. In this case, the Court issued a panel decision vacating and remanding the issues of entitlement to service connection for colon cancer and lumps on the left side of the head and middle of a breast. The remand was based upon the Board’s error in denying the Veteran’s claims without affording fair process. See pages 3-9 of the Panel Decision. The Court issued Mandate on January 21, 2021. Based upon the foregoing, Mr. Bryant is a prevailing party.

B. Appellant Is Eligible For An EAJA Award

Appellant also satisfies the EAJA requirement that his net worth at the time his appeal was filed did not exceed \$2,000,000. 28 U.S.C. § 2412(d)(2)(B). Mr. Bryant had a net worth under \$2,000,000 on the date this action was commenced.

See Paragraph 3 of the fee agreement filed with the Court. Therefore, Mr. Bryant is a person eligible to receive an award under the EAJA.

C. *The Position of the Secretary Was Not Substantially Justified*

In *White v. Nicholson*, 412 F.3d 1314 (Fed. Cir. 2004) the Federal Circuit applied the totality of the circumstances test and noted that “EAJA requires that the record must supply the evidence of the Government's substantial justification.” 412 F.3d at 1316. The Secretary's position during proceedings before the Agency and in Court was not reasonable, either in law or in fact, and accordingly the Secretary's position was not substantially justified at the administrative or litigation stages in this case. As evidenced by the remand issued by the Court, there is nothing substantially justified in the Board’s error in failing to provide fair process as required by law. Moreover, there is no evidence that special circumstances exist in Appellant’s case that would make an award of reasonable fees and expenses unjust. 28 U.S.C. § 2412(d)(1)(A).

2. ITEMIZED STATEMENT OF SERVICES RENDERED AND AMOUNTS OF REASONABLE FEES AND EXPENSES

Appellant has claimed a reasonable amount of attorneys fees, predicated upon “the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.” *Ussery v. Brown*, 10 Vet. App. 51, 53 (1997) (*quoting Elczynyn*, 7 Vet. App. At 176-177).

One attorney, Michael S. Just, from the law firm of Just Law worked on this case. Michael Just graduated from Roger Williams University Law School in 2008 and the *Laffey Matrix*¹ establishes that \$532.00 is the prevailing market rate for an

¹ The U.S. Attorney’s Office maintains a matrix, known as the Laffey Matrix, of prevailing market rates of prevailing market rates for attorneys by years of practice,

attorney with his experience.

Attached as Exhibit A to this fee petition are the hours worked. Appellant seeks attorneys' fees at the rate of \$204.19 per hour for Mr. Just for representation services before the Court.² This rate per hour, multiplied by the number of hours billed (91.4) results in a total attorney's fee amount of \$18,662.97.

I, Michael Just, am the lead counsel in this case. I certify that I have reviewed this billing statement and am satisfied that it accurately reflects the work performed. As such, I hereby request that the Court grant this petition and award attorney's fees in the amount of **\$18,662.97**.

taking into account annual price increases, pursuant to *Laffey v. Northwest Airlines, Inc.*, 572 F.Supp. 354 (D.D.C. 1983), *aff'd in part by* 746 F.2d.4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021, 105 S. Ct. 3488 (1985). This Court has approved the use of the Laffey Matrix for determining the prevailing market rate for EAJA fees. *See, e.g., Wilson v. Principi*, 16 Vet. App. 509, 213 (2002) (finding the Laffey Matrix a "reliable indicator of fees...particularly as to cases involving fees to be paid by government entities or determined under fee-shifting statutes"), *vacated on other grounds by* 391 F.3d 1203 (Fed. Cir. 2004); *see also Sandoval*, 9 Vet. App. at 181 (using the Laffey Matrix as an indicator of prevailing market rate and holding that once a prevailing market rate is established, the government has the burden of producing evidence to show that the rate is erroneous.) *See* Exhibit B (Laffey Matrix).

² This rate was determined by adjusting the \$125 per hour statutory EAJA rate by the increase in the cost of living as determined by the Consumer Price Index-U for Northeast. *See Mannino v. West*, 12 Vet. App. 242, 243 (1999). The increase was calculated for the period from March 29, 1996 (the start date for the EAJA rate), to June 2018 the chosen mid-point date for the litigation in this case, using the method described in *Elczyzyn v. Brown*, 7 Vet. App. 170, 181.

Respectfully submitted,

Cleamon Bryant,
By His Representative,

/s/ Michael S. Just

Michael S. Just

JUST LAW

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EXHIBIT A

12/4/17 – screen BVA decision; review decision for potential appeal to CAVC; take notes and outline issues presented and potential arguments.

1.4 hours

1/05/18 – open case; prepare notice of appeal and notice of appearance and file with Court

.3 hours

1/10/18 – receive signed FA and DFH from client; file documents with Court; update file

.3 hours

2/3/18 – received letter from VA re consent to release information; email to VA.

.1 hours

2/8/18 – review transmitted BVA decision; update file

.1 hours

3/9/18 – review Aee notice of appearance; update file.

.1 hours

3/12/18 – review RBA certificate of service; calendar deadline for RBA dispute; update file.

.1 hours

3/15/18 – received RBA disc; upload disc and save to file; update file.

.2 hours

3/19/18 – begin case map and review of RBA pages 1-400; document and take

notes on procedural and substantive evidence.

2.5 hours

3/19/18 – continue case map and review of RBA pages 401-1000; document and take notes on procedural and substantive evidence.

2.6 hours

3/20/18 - complete case map and review of RBA pages 1001-1791; document and take notes on procedural and substantive evidence.

2.3 hours

3/22/18 - review file in preparation for drafting PBC memo; review BVA decision and RBA; review pertinent evidence; review case notes. Conduct legal research on issues presented; take notes on argument strategy and outline PBC memo.

2.1 hours

3/22/18 – draft PBC memo/argument; edits and revisions to memo.

1.5 hours

3/23/18 – revise PBC memo to reflect change in argument strategy; edit memo with argument revisions.

.5 hours

3/26/18 – continue revisions to PBC memo; add additional legal citations and argument; edits and revisions to entire memo.

1.0 hours

4/3/18 – review notice to file brief; calendar brief due date; update file.

.1 hours

4/19/18 – review PBC order; calendar due date for PBC memo; calendar PBC; update file.

.2 hours

4/25/18 – final edits and revisions to PBC memo; prepare PBC memo for submission; submit PBC memo; prepare certificate of service and file with Court; update file.

.6 hours

5/17/18 – review file in preparation for PBC; review BVA decision, RBA, PBC memo and case notes; participate in PBC; review pleadings from Clark case discussed during PBC; take in depth notes re case law and briefing strategy. Phone call to client to discuss PBC outcome and expectations; note to file.

2.1 hours

5/31/18 – review file in preparation for drafting opening brief; review BVA decision, RBA and pertinent evidence, PBC memo and case notes; conduct legal research on issues presented and applicable law; outline opening brief.

2.5 hours

6/4/18 – begin drafting opening brief; review RBA, procedural and substantive evidence to draft statement of the case; draft statement of the case.

1.6 hours

6/5/18 – continue drafting opening brief; additional sections.

3.1 hours

6/5/18 – continue drafting argument sections for opening brief; edits and revisions to all arguments; additional legal research; add additional case law and citation.

2.4 hours

6/6/18 – complete drafting opening brief – final edits and revisions to entire brief; finalize brief to include TOA; assemble brief into final format.

2.0 hours

6/11/18 - final review of opening brief before filing with Court; prepare brief for filing with Court; file brief with Court; update file and calendar for Sec. brief due date.

.5 hours

6/11/18 – telephone call to client; provide status update; email copy of opening brief to client; note to file.

.3 hours

7/11/18 – review precedential decision in Clark; review file; draft email to VA counsel with additional arguments.

1.1 hours

8/9/18 – email from VA counsel; review file; reply email.

.2 hours

8/9/18 – review Aee MET to file brief; calendar brief due date; update file.

.1 hours

9/24/18 – received Aee brief; save to file; calendar reply brief due date; update file.

.1 hours

9/24/18 – review Aee brief and take notes; review file to include opening brief, RBA, BVA decision and case notes; conduct legal research; review recent precedential decision from Court in *Clark*.

2.2 hours

9/25/18 – review file in preparation for drafting reply brief; review pleadings and case notes re argument strategy; conduct additional legal research to include in-depth review and analysis of applicable precedential case law; outline reply brief.

2.3 hours

9/25/18 – begin drafting reply brief.

2.8 hours

9/26/18 - continue drafting reply brief; edits and revisions to entire brief; finalize brief; prepare reply brief for filing with Court; file reply brief with Court; update calendar and case file.

3.1 hours

10/3/18 – review Aee motion to extend time to file ROP; update file.

.1 hours

10/24/18 – review ROP; prepare letter of acceptance and file with Court; update file.

.3 hours

10/25/18 – client called to discuss case status and next steps; note to file.

.2 hours

10/30/18 – case assigned to Judge; update file.

.1 hours

12/7/18 – review Court order staying case; update file.

.1 hours

3/20/19 – review panel decision in Williams; review file and pleadings and take notes re case implications; draft Rule 30(b) notice and file with Court.

1.2 hours

2/11/20 – case assigned to panel; update file.

.1 hours

2/26/20 – review Court order ordering oral argument to be scheduled.

.1 hours

3/3/20 – review Court order scheduling oral argument; update calendar and file.

.1 hours

3/26/20 – review Court order; note to file.

.1 hours

4/10/20 – begin preparation for OA – review file and case notes; conduct preliminary research and take notes on potential issues presented.

3.1 hours

4/11/20 – continue preliminary legal research; takes notes.

2.8 hours

4/13/20 – OA preparation; review prior relevant OA; take notes.

2.2 hours

4/18/20 – OA preparation; legal research; take notes on issues.

3.1 hours

4/25/20 – continue legal research in preparation for OA; take notes.

2.0 hours

5/5/20 – OA preparation; legal research; take notes; begin drafting opening statement.

3.0 hours

5/6/20 – continue research for OA; continue drafting opening statements; meeting

to discuss OA.

2.8 hours

5/11/20 – OA preparation and studying.

3.1 hours

5/21/20 – conduct legal research; take notes; edits and revisions to opening statement; participate in moot argument.

4.0 hours

5/25/20 – OA preparation and studying.

2.5 hours

5/26/20 – participate in WebEx conference.

.3 hours

5/28/20 – final moot argument.

2.5 hours

5/29/20 – participate in OA.

1.5 hours

6/2/20 – review Court order; update file and calendar.

.1 hours

6/3/20 – conduct legal research; take notes; outline supplemental briefing; begin drafting supplemental briefing.

2.8 hours

6/3/20 – continue drafting supplemental briefing.

2.5 hours

6/21/20 – continue drafting supplemental briefing; additional research; edits and revisions.

3.1 hours

7/2/20 – final edits and revision to supplemental brief; prepare for filing and file with Court; update file.

1.2 hours

10/26/20 – review Panel decision from Court; review file; draft memo to file re decision and case implications; update calendar and file; contact client to discuss decision and next steps; note to file.

1.5 hours

11/17/20 – review Judgment; calendar due date for entry of mandate and EAJA filing.

.1 hours

1/20/21 – prepare EAJA petition and exhibits; review for accuracy and completeness.

2.0 hours

1/21/21 - review mandate; update file; review EAJA petition and file petition with Court.

.4 hours

TOTAL HOURS: 91.4

RATE: \$204.19

AMOUNT: \$18,662.97

EXHIBIT B

USAO ATTORNEY'S FEES MATRIX — 2015-2021

Revised Methodology starting with 2015-2016 Year

Years (Hourly Rate for June 1 – May 31, based on change in PPI-OL since January 2011)

Experience	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
31+ years	568	581	602	613	637	665
21-30 years	530	543	563	572	595	621
16-20 years	504	516	536	544	566	591
11-15 years	455	465	483	491	510	532
8-10 years	386	395	410	417	433	452
6-7 years	332	339	352	358	372	388
4-5 years	325	332	346	351	365	380
2-3 years	315	322	334	340	353	369
Less than 2 years	284	291	302	307	319	333
Paralegals & Law Clerks	154	157	164	166	173	180

Explanatory Notes

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia (USAO) to evaluate requests for attorney's fees in civil cases in District of Columbia courts. The matrix is intended for use in cases in which a fee-shifting statute permits the prevailing party to recover "reasonable" attorney's fees. *See, e.g.*, 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412(b) (Equal Access to Justice Act). The matrix has not been adopted by the Department of Justice generally for use outside the District of Columbia, or by other Department of Justice components, or in other kinds of cases. The matrix does **not** apply to cases in which the hourly rate is limited by statute. *See* 28 U.S.C. § 2412(d).
2. A "reasonable fee" is a fee that is sufficient to attract an adequate supply of capable counsel for meritorious cases. *See, e.g., Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552 (2010). Consistent with that definition, the hourly rates in the above matrix were calculated from average hourly rates reported in 2011 survey data for the D.C. metropolitan area, which rates were adjusted for inflation with the Producer Price Index-Office of Lawyers (PPI-OL) index. The survey data comes from ALM Legal Intelligence's 2010 & 2011 Survey of Law Firm Economics. The PPI-OL index is available at <http://www.bls.gov/ppi>. On that page, under "PPI Databases," and "Industry Data (Producer Price Index - PPI)," select either "one screen" or "multi-screen" and in the resulting window use "industry code" 541110 for "Offices of Lawyers" and "product code" 541110541110 for "Offices of Lawyers."

The average hourly rates from the 2011 survey data are multiplied by the PPI-OL index for May in the year of the update, divided by 176.6, which is the PPI-OL index for January 2011, the month of the survey data, and then rounding to the nearest whole dollar (up if remainder is 50¢ or more).

3. The PPI-OL index has been adopted as the inflator for hourly rates because it better reflects the mix of legal services that law firms collectively offer, as opposed to the legal services that typical consumers use, which is what the CPI- Legal Services index measures. Although it is a national index, and not a local one, *cf. Eley v. District of Columbia*, 793 F.3d 97, 102 (D.C. Cir. 2015) (noting criticism of national inflation index), the PPI-OL index has historically been generous relative to other possibly applicable inflation indexes, and so its use should minimize disputes about whether the inflator is sufficient.
4. The methodology used to compute the rates in this matrix replaces that used prior to 2015, which started with the matrix of hourly rates developed in *Laffey v. Northwest Airlines, Inc.* 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985), and then adjusted those rates based on the Consumer Price Index for All Urban Consumers (CPI-U) for the Washington-Baltimore (DC-MD-VA-WV) area. Because the USAO rates for the years 2014-15 and earlier have been generally accepted as reasonable by courts in the District of Columbia, see note 9 below, the USAO rates for those years will remain the same as previously published on the USAO's public website. That is, the USAO rates for years prior to and including 2014-15 remain based on the prior methodology, *i.e.*, the original *Laffey* Matrix updated by the CPI-U for the Washington-Baltimore area. See *Citizens for Responsibility & Ethics in Washington v. Dep't of Justice*, --- F. Supp. 3d ---, 2015 WL 6529371 (D.D.C. 2015) and Declaration of Dr. Laura A. Malowane filed therein on Sept. 22, 2015 (Civ. Action No. 12-1491, ECF No. 46-1) (confirming that the USAO rates for 2014-15 computed using prior methodology are reasonable).
5. Although the USAO will not issue recalculated *Laffey* Matrices for past years using the new methodology, it will not oppose the use of that methodology (if properly applied) to calculate reasonable attorney's fees under applicable fee-shifting statutes for periods prior to June 2015, provided that methodology is used consistently to calculate the entire fee amount. Similarly, although the USAO will no longer issue an updated *Laffey* Matrix computed using the prior methodology, it will not oppose the use of the prior methodology (if properly applied) to calculate reasonable attorney's fees under applicable fee-shifting statutes for periods after May 2015, provided that methodology is used consistently to calculate the entire fee amount.
6. The various "brackets" in the column headed "Experience" refer to the attorney's years of experience practicing law. Normally, an attorney's experience will be calculated starting from the attorney's graduation from law school. Thus, the "Less than 2 years" bracket is generally applicable to attorneys in their first and second years after graduation from law school, and the "2-3 years" bracket generally becomes applicable on the second anniversary of the attorney's graduation (*i.e.*, at the beginning of the third year following law school). See *Laffey*, 572 F. Supp. at 371. An adjustment may be necessary, however, if the attorney's admission to the bar was significantly delayed or the attorney did not otherwise follow a typical career progression. See, *e.g.*, *EPIC v. Dep't of Homeland Sec.*, 999 F. Supp. 2d 61, 70-71 (D.D.C. 2013) (attorney not admitted to bar compensated at "Paralegals & Law Clerks" rate); *EPIC v. Dep't of Homeland Sec.*, 982 F. Supp. 2d 56, 60-61 (D.D.C. 2013) (same). The various experience levels were selected by relying on the levels in the ALM Legal Intelligence 2011 survey data. Although finer gradations in experience level might yield different estimates of market rates, it is important to have statistically sufficient sample sizes for each experience level. The experience categories in the current USAO Matrix are based on statistically significant sample sizes for each experience level.
7. ALM Legal Intelligence's 2011 survey data does not include rates for paralegals and law clerks. Unless and until reliable survey data about actual paralegal/law clerk rates in the D.C. metropolitan area become available, the USAO will compute the hourly rate for Paralegals & Law Clerks using the most recent historical rate from the USAO's former *Laffey* Matrix (*i.e.*, \$150 for 2014-15) updated with the PPI-OL index. The formula is \$150 multiplied by the PPI-OL index for May in the year of the update,

divided by 194.3 (the PPI-OL index for May 2014), and then rounding to the nearest whole dollar (up if remainder is 50¢ or more).

8. The USAO anticipates periodically revising the above matrix if more recent reliable survey data becomes available, especially data specific to the D.C. market, and in the interim years updating the most recent survey data with the PPI-OL index, or a comparable index for the District of Columbia if such a locality-specific index becomes available.

9. Use of an updated *Laffey* Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the USAO as evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. *See Covington v. District of Columbia*, 57 F.3d 1101, 1105 & n.14, 1109 (D.C. Cir. 1995), cert. denied, 516 U.S. 1115 (1996). Most lower federal courts in the District of Columbia have relied on the USAO Matrix, rather than the so-called “*Salazar* Matrix” (also known as the “LSI Matrix” or the “Enhanced *Laffey* Matrix”), as the “benchmark for reasonable fees” in this jurisdiction. *Miller v. Holzmann*, 575 F. Supp. 2d 2, 18 n.29 (D.D.C. 2008) (quoting *Pleasants v. Ridge*, 424 F. Supp. 2d 67, 71 n.2 (D.D.C. 2006)); see, e.g., *Joaquin v. Friendship Pub. Charter Sch.*, --- F. Supp. 3d ---, 2016 WL 3034151 (D.D.C. 2016); *Prunty v. Vivendi*, --- F. Supp. 3d ---, 2016 WL 3659889 (D.D.C. 2016); *CREW v. U.S. Dep’t of Justice*, --- F. Supp. 3d ---, 2015 WL 6529371 (D.D.C. 2015); *McAllister v. District of Columbia*, 21 F. Supp. 3d 94 (D.D.C. 2014); *Embassy of Fed. Republic of Nigeria v. Ugwuonye*, 297 F.R.D. 4, 15 (D.D.C. 2013); *Berke v. Bureau of Prisons*, 942 F. Supp. 2d 71, 77 (D.D.C. 2013); *Fisher v. Friendship Pub. Charter Sch.*, 880 F. Supp. 2d 149, 154-55 (D.D.C. 2012); *Sykes v. District of Columbia*, 870 F. Supp. 2d 86, 93-96 (D.D.C. 2012); *Heller v. District of Columbia*, 832 F. Supp. 2d 32, 40-49 (D.D.C. 2011); *Hayes v. D.C. Public Schools*, 815 F. Supp. 2d 134, 142-43 (D.D.C. 2011); *Queen Anne’s Conservation Ass’n v. Dep’t of State*, 800 F. Supp. 2d 195, 200-01 (D.D.C. 2011); *Woodland v. Viacom, Inc.*, 255 F.R.D. 278, 279-80 (D.D.C. 2008); *American Lands Alliance v. Norton*, 525 F. Supp. 2d 135, 148-50 (D.D.C. 2007). *But see, e.g., Salazar v. District of Columbia*, 123 F. Supp. 2d 8, 13-15 (D.D.C. 2000). The USAO contends that the *Salazar* Matrix is fundamentally flawed, does not use the *Salazar* Matrix to determine whether fee awards under fee-shifting statutes are reasonable, and will not consent to pay hourly rates calculated with the methodology on which that matrix is based.